ORIGINAL

FILED
AUG 26 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

20-354
No.

In The
Supreme Court of the United States

In re LORCAN T. KILROY

Petitioner,

v.

LOS ANGELES UNIFIED
SCHOOL DISTRICT BOARD OF EDUCTION et al.,

Respondents

On Petition For Extraordinary Writ Of Mandamus To The United States Court of Appeals For The Ninth Circuit Seeking Removal Of Case No.19-55357 From That Allotted Circuit Due To Political Bias From Potential Criminal Exposure Of U.S. Vice Presidential Candidate, Or Vice President, Kamala D. Harris 28 U.S.C. § 1651(a)

PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS

Lorcan T. Kilroy
In Pro Se
8927 Cedros Avenue, No. 6
Panorama City, California, 91402
Telephone: (818) 481-4873
Email: lorcankilroy@gmail.com

RECEIVED
SEP 16 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

a) Whether or not democrat political bias to protect Sen. Kamala Harris from exposure to criminal prosecution existed in USCA9 No. 19-55357, enough to warrant an order for non-California based federal law enforcement investigation of criminal obstruction ignored by circuit jurists.

b) Whether or not democrat political bias to protect Sen. Kamala Harris existed in USCA9 No. 19-55357, enough to warrant an order that the case be reheard in a different circuit.

c) Whether, in termination of public employees with property interests, the ninth circuit's upholding of indefinite deprivation of all pay, well before the date of hearing offered as satisfying Loudermill, meets U.S. standards set by Loudermill.

d) Whether or not proof that the ninth circuit upheld summary judgment without reading the '*Statement of Uncontroverted Material Facts*' and corresponding '*Objections And Statements Of Dispute*', meets U.S. standards set by the Supreme Court.

EXCEPTIONAL CIRCUMSTANCES WARRANT EXERCISE OF THE COURT'S DISCRETIONARY POWERS, AND ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT

As described herein and in referenced circuit and U.S.D.C. filings of uncontroverted documentary evidence, potential criminal exposure of U.S. Vice Presidential candidate, or Vice President, Kamala D. Harris exists upon any remand and reversal, as this extraordinary circumstance warrants use of the court's discretionary power. No other court has the power to reverse the decision of the circuit court and remove the case to a different circuit under these extraordinary circumstances.

LIST OF PARTIES

Pursuant to Rule 20.2 and 14.1(b), Petitioner states that the parties include:

Lorcan T. Kilroy, Appellant and Petitioner.

LOS ANGELES UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION, JOHN PLEVACK, individually and in official capacity as Principal of Millikan Middle School; PAULA GREENE, individually and in official capacity as Assistant Principal; JUSTO AVILA, individually and in official capacity as Chief of Human Resources; MICHEL VEZINA, individually as a school parent; JANE DOE, individually as an LAUSD student; GEORGE MCKENNA, SCOTT SCHMERELSON, MONICA RATLIFF and REF RODRIGUEZ, individually and in their official capacities as Board members , Defendants And Respondents.

TABLE OF CONTENTS

Page

Questions Presented i

EXCEPTIONAL CIRCUMSTANCES WARRANT EXERCISE OF THE COURT'S DISCRETIONARY POWERS, AND ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT..... ii

LIST OF PARTIES iii

OPINIONS BELOW 1

STATEMENT OF JURISDICTION & CONSTITUTIONAL AND STATUTORY PROVISIONS 2

STATEMENT OF THE CASE 3

A. Overlooked Fatal Enumeration Errors By Defendants In MSJ Documents Show Ninth Circuit Justices Schroeder, Trott And Canby, And U.S.D.C. Court Judge Gee, And Her Magistrate Judge Early, Did Not Even Read Crucial MSJ Documents Including Kilroy's Statement Of Uncontroverted Material Facts And LAUSD's Responses ,Before Decision Dispositive To The Case, Proving Circuit Political Bias And Case Rigging.....15

TABLE OF CONTENTS (continued)

B. LAUSD Defendants Also Left Certain Key Facts In Those Crucial Filed MSJ Documents Uncontested/Uncontroverted, Showing Ninth Circuit Justices Schroeder, Trott And Canby, And Lower USDC Court Judge Gee, And Her Magistrate Judge Early, Did Not Even Read Those Crucial MSJ Documents Including Petitioner's Statement Of Uncontroverted Material Facts And LAUSD's Responses To Those Facts, Before Decision Dispositive To The Case, Proving Political Bias And Case Rigging In The Ninth Circuit.....17

CONCLUSION

Kamala Harris And Her Connection To Corrupt Oversight Of The Suppression Of Witness Statements From, And Corrupt Alteration Of A Date In, Los Angeles Police Dept. Det. Report No. No. DR 12-09-11015, And The Sexualized Accusations By Defendants Enacted Mid-Litigation Against Petitioner To Obstruct This Federal Action And Protect Harris; The Who, What, Where, And Why Behind Jurists' Motives For This Case Rigging.....29

TABLE OF CONTENTS (continued)

APPENDIX

United States Court of Appeals For The Ninth Circuit, Order On Petition For Rehearing, Aug 11, 2020, Opinion Affirming Judgment, June 23, 2020.....App. A

Registered California Process Server Eric Montoya' Proof of Service Upon State Official Kamala Harris In Individual Capacity, Mar 2, 2015.....App. B

Pages 41 and 42 from Petitioner KILROY's Statement of Uncontroverted Material Facts in support of his MSJ, (Document 148 in case 2:16-cv-09068-DMG-JDE, filed June 4 2018); followed by pages 54 and 55 from LAUSD Defendants' corresponding responses in document 155 filed June 21, 2018, showing Defendants' fact numeration errors.....App. C

TABLE OF AUTHORITIES

FEDERAL CASES

Cleveland Board of Education v. Loudermill,
470 U.S. 532
(1985).....passim

STATE CASES

Skelly v. State Personnel Board,
15 Cal. 3d 194
(1975).....27,28

STATUTES

U.S.C. § 242 30

OPINIONS BELOW

The United States Court of Appeals for the Ninth Circuit order denying Petitioner's substitute/corrected petition for rehearing En Banc was issued August 11, 2020. App. A. The opinion of the United States Court of Appeals for the Ninth Circuit was issued on June 23, 2020. Also App. A.

The Ninth Circuit affirmed the decision of the United States District Court Judge Dolly M. Gee for the Central District of California issued on March 29, 2019, document number 241 in the District Court's docketed matter number 2:16-cv-09068-DMG-JDE (C.D. Ca.). The District Court adopted in its entirety the Final Report and Recommendation of Magistrate Judge John D. Early issued on December 6, 2018, document number 237.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Ninth Circuit issued its opinion affirming the decision of the United States District Court for the Central District of California on June 23, 2020, App. A. The jurisdiction of this Honorable Court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves

(1) 18 U.S.C. § 1503 Obstruction
(2) 18 U.S.C. § 242 , Conspiracy
(3) Due Process and Liberty/ Injury to Reputation (14th, 5th Amendments,) 42 U.S.C. § 1983
(4) Due Process Monell Claim (14th, 5th Amendments,) 42 U.S.C. § 1983

STATEMENT OF THE CASE

To give context, petitioner summarizes a related previous case, the obstruction of which gave way to the cause of action in the instant case. Petitioner Lorcan T. Kilroy was a public high school Art teacher. As the son of Thomas Kilroy, Booker prize shortlisted Irish playwright and retired chair of the Modern English Dept. at University College Galway, and Patricia Cobey, a New Yorker who taught Dramaturgy at Princeton and Julliard, petitioner was privileged to be a second-generation lifelong educator in service to the public. He held a terminal degree, (M.F.A. in studio visual art), in his subject matter. The instant civil, (yet involving uninvestigated unprosecuted U.S.C. obstruction), cause of action came about because of Defendants', (petitioner's former employers the Los Angeles School District, (LAUSD), and LAUSD individuals), acts to incapacitate petitioner's other federal action that has since closed.

Petitioner Kilroy previously litigated against the LAUSD Defendants in 2013 while still working for them as an Art teacher, (related case USDC cv 13-06373/Ninth Cir. no. 16-56484/ U.S. Supreme Crt. 18-9663.) As detailed below, CA. AG Kamala Harris obstructed by pulling petitioner's State teaching license, as Harris was in individual capacity involved in the political aiding and abetting of suppression of

witness statements from, and corrupt alteration of a date in, a municipal police report connected to the previous case, which petitioner inadvertently discovered.

Petitioner went to work as an Art teacher for Defendants at Van Nuys High School in 2003 and had a smooth run until about 2011, and generally no problems, until a new Principal Judith Vanderbok arrived. In that first lawsuit, Art teacher petitioner exposed, based on student classroom surveys and records on his classroom computer, that LAUSD individuals were quarantining students marked as "special education" in certain classrooms and denying them choices of electives. Later it emerged they were committing fraud by dubbing behaviorally "difficult", or academically challenging non-English speaking students, with the learning disabled acronyms "SDC" or "SLD" on certain district computer systems, with no required psycho educational testing or parent consent, to obtain federal tax dollars.

At first, in the previous case, petitioner had made complaint to Principal Vanderbok to no avail, then to LAUSD's office of educational equity compliance in 2011. Vanderbok and LAUSD individuals responded by, unbeknownst to petitioner at that time, enrolling or transferring dozens and dozens of the most unruly and offensive students into Petitioners classroom,

without noticing him, (under CA. Ed. Code 49079) , of previous suspension records , and then ignoring dean behavior referrals, to try to pressure/ouster Kilroy.

After dean referrals about the disparate threats and abuse from students were ignored by the administration, Petitioner wrote a desperate and harsh letter to two parents of such students, (a letter that was hastily broadcast on the NBC six o' clock news by reporter John Cadiz Klemack, a social media friend of LAUSD General Counsel Holmquist). NBC edited out fact that LAUSD had told petitioner they were referring him for license revocation and termination for the letter.

Petitioner, terrified, sued and claimed unequal treatment under law and retaliation. He had, within weeks of the letter, discovered a battery and criminal threats crime by another teacher at his school Van Nuys High School, when petitioner's own student M.R. confided that another teacher had "choked" a student in class, a 15 year old boy, (the "John Doe 1" perpetrator incident). This was within weeks of petitioner's supposedly harmful letter to adult parents, but John Doe 1 only received an "anger management referral." The John Doe 1 incident is distorted by NBC reporter Klemack in the NBC report about petitioner's parent letter, (available online), as NBC skirt mention of emails from police confirming child abuse, that petitioner

had given NBC. Petitioner later discovered a slew of other abusive and criminal comparator teachers whose classroom acts and crimes outside school had gone without penalty, and even been protected by police and LAUSD.

In discovery Petitioner subpoenaed the police and discovered, (despite the fact the crimes took place in two classrooms full of minors and adult aides, as John Doe 1 ran screaming after the 15 year old victim from classroom to classroom, choked him, shoved him, dragged him across the floor, and threatened his life), that dozens of classroom witness statements from two classrooms had been suppressed from the police reports, to "save" John Doe 1's career. The City Atty. falsely stated "no witnesses" as reason not to file charges. (This damage control was in the weeks after the big LAUSD Miramonte Elementary school sex abuse scandal had hit the media.) Petitioner complained to police command staff and got nowhere. He then mailed all the secret witness statements to police commission President Steve Soboroff at Soboroff's private business address in Santa Monica CA. and Soboroff personally telephoned and said he would review it, but then Soboroff had a different commission member email petitioner saying all was all ok with the police handling. Petitioner then complained to AG Kamala Harris who was silent but CAG Harris' client the CA. teacher credentialing agency began making intimidating overtures of

revoking petitioner's license as Harris stood by. Petitioner was being given the message to stay quiet and bury it, but then in March 2015 he had process server Eric Montoya serve Harris in San Francisco in individual capacity with notice of the John Doe 1 police cover-up, and he included some of the ignored communications he had previously sent to Harris and Harris' office. (copy of proof of service of that service to Harris is attached as App. B, (redacted for instant filing)).

A few months after serving Harris, (who was seen in news reports personally visiting LAUSD Supt. John Deasy and talking privately with him before Deasy abruptly resigned), Defendants then put petitioner in a dance classroom in Oct of 2015 to supposedly "substitute", and after class LAUSD adults only, (with no sworn student statements), falsified that Kilroy had looked at students' buttocks and looked in a makeshift broom closet changing room they had illegally rigged up in the dance classroom. Los Angeles police, as if told by top cop Harris' office, refused to investigate, instead referring the matter to LAUSD for "administrative handling." LAUSD individuals then terminated petitioner while violating his due process during the termination as described herein, leading to the instant action. Harris continued her silence and then, as prosecutor, revoked petitioner's Calif. credential in 2016, using the 2012 letter featured on NBC, (but tellingly none of the dance class

falsifications), as her pretext. A lawyer colleague of Harris', a former AG Deputy named John DeCure, was swapped in at the last moment to substitute for the regular license revocation administrative law "judge", to make sure revocation for the four year old letter "stuck". At issue here is the ruling on MSJ by circuit judges, in LAUSD defendants' favor.

Although they supposedly followed law when granting Motion For Summary Judgment, (MSJ), for Defendants, the ninth circuit and Calif. USDC judges in this case made a little mistake which reveals they and their clerks behind the scenes never, as required, even read petitioner Kilroy's MSJ statement of uncontroverted facts and Defendants crucial responses to those facts, proving their MSJ decision was rubberstamped/pre-determined. They and their clerks failed to notice a procedural glitch described further herein: that numeration in the Defendants' MSJ responses to petitioner Kilroy's MSJ statement of uncontroverted facts was off, rendering Defendants' responses null. Also they failed to notice, as described herein, an uncontested fact that proves petitioner was permanently deprived of pay before he was even offered a state administrative, (OAH), hearing, the very hearing offer then postured by USDC and circuit judges as satisfactory of the Loudermill hearing standard. Indefinite deprivation of pay before Loudermill cannot stand.

These facts, when coupled with the staggering

documentary evidence filed, (and pinpointed throughout the USDC docket by petitioner in his uncontroverted affidavit in the Appendices of related and already docketed United States Supreme Court case No. 18-9663), show that Kamala Harris, in her final days as CAG, in individual capacity, and initially with local political motive, aided and abetted the suppression of witness statements from, and corrupt alteration of a date in, a municipal, (Los Angeles), police detective's report about John Doe I's crime.

Obviously Harris thought it was "just a little one", just a couple of misdemeanor battery and criminal threats crimes brushed under the rug to save LAUSD Supt. Deasy and police public shame and political damage. Obviously during any trial from the instant action, this fact might implicate or damage Harris and, given the current political situation, the circuit judges and USDC judge's behavior at MSJ points towards gross political bias. Adding weight to that finding, this application comes at the culmination of seven years of action, in two cases, by a legally inexperienced victimized Pro Se high school Art teacher. One glance at the dockets shows that the action was unreasonably, in fact gruesomely, drawn out by ninth circuit and Western USDC courts, in effect spinning wheels, exhausting Pro Se Kilroy, obfuscating the docket, subverting and blocking meaningful discovery, and almost killing him. Why that disgusting seven-year torture

scenario. Rhetorically speaking, why was there refusal, in a wholly taxpayer funded public school case, to actually save public money and time all around by appointing, (as Kilroy requested), a discovery master to quickly control tough defense lawyers' tactics beyond the merits. Why was there refusal to order public school district LAUSD to provide custodian declarations with business records in discovery to make them admissible. Why, if not for gruesome political bias. The California federal jurists wanted a strung out obfuscated seven-year docket. They wanted inadmissible business records from LAUSD, not admissible. They wanted to hide the issue of the aforementioned detective's report which was corrupted, because they wanted to protect democrat official Harris in California. If not, then what is the explanation. Taxpayers were paying federal taxes to fund not just the court, but LAUSD's lawyer expenses, and the ninth circuit jurists further allowed federal taxpayers to pay even for the, (LAUSD), lawyers who protected a key defendant who was a school parent, a non-public employee, a private citizen, (MICHEL VEZINA.)

The only rational motive that exists for this was to protect Kamala Harris and others from prosecution for aiding and abetting the falsification of the Los Angeles police detective's report, (see related U.S. Supreme Crt. No. 18-9663 Appendices containing petitioner's uncontroverted affidavit about Harris' involvement with petitioner's case and that police report).

This action has now unbelievably snowballed to concern potential exposure of the running United States Vice Presidential candidate, or Vice President, (Harris), for this act of individual capacity criminal activity, specifically the aiding and abetting of the suppression of witness statements from, and the corrupt alteration of a date in, that aforementioned specific sequence of detective's reports, (all marked DR 12-09-11015 by Los Angeles police), in a municipal police department in a territory of the United States. That constitutes a crime. See again copy of petitioner's March 2, 2015 proof of service of process about the John Doe 1 crime cover up upon Harris in individual capacity, (App. B.), and note documentation in the sworn proof of inclusion of paper copies of some of the communications previous to that service that were stonewalled by her and/or her office, while she fumed and waited to be sure she was "in the clear" from Judge Gee, before revoking petitioner's teaching license in revenge. Harris' former 2015 AG staffers Rochelle East, Nathan Barankin, Kristen Dalessio and others remain silent.

Harris acted alongside and to "back up" Los Angeles Police Dept. command staff and then police commission President Steve Soboroff during the supposed oversight review of the high school teacher on student battery incident that is LAPD DR 12-09-11015, a review instigated by petitioner schoolteacher Kilroy, and which led to destruction of

his teaching license by Harris, and to sexualized falsifications which were separately used in Oct. 2015 to try to obstruct this action. (As stated, Harris used no sexual falsifications in 2016 to absurdly revoke petitioner's teaching license, only her pretext of the 2012 letter.) As shown in below discussion, the democrat leaning ninth circuit, with the prospect of democrat ninth circuit figure Harris as United States Vice President, simply cannot adjudicate this matter fairly. As the conscience shocking facts discussed below reveal, there is now simply too much political weight leaning against already pulverized common schoolteacher petitioner Kilroy, for any fair supposed "de novo" adjudication on appeal to actually occur in Harris' home courts dominated by democrats.

As described in petitioner's uncontroverted affidavit within Appendices of U.S. Supreme Crt. No. 18-9663, the specific sequence of Los Angeles Police Department, (LAPD), detectives' reports marked No. DR 12-09-11015, detailing the mid career white schoolteacher John Doe 1's potentially career ending classroom battery and criminal threats on an impoverished minority 15 year old student victim at Van Nuys High school in Los Angeles; alongside petitioner's encounter as a teacher with police misconduct enacted to cover up those battery and criminal threats crimes, is crucial to, and at the

heart of, this case and heart of related case Supreme Crt. No. 18-9663. This is because Los Angeles police command staff including then LAPD Chief Charles Beck, then LAPD Juvenile Div. Captain Fabian Lizarraga, police commission President Steve Soboroff, and even then CAG Kamala Harris, became involved, at petitioner's instigation, in the Los Angeles Police commission's supposed oversight of LAPD DR 12-09-11015. They then failed to correct the situation as it snowballed because of the potential political and media fallout. Petitioner's career and license were then destroyed in obstructive attempts to make him stop litigating in Pro Se about the little thorn of the LAPD reports marked DR 12-09-11015, (see lower court operative complaint related to instant appeal ("FAC"). (Defendants' SER 1036-1110).

The gravity and resultant political yaw of the lower court and Ninth Circuit decisions thus far cannot be overestimated and petitioner Kilroy now needs relief from the nation's highest court.

Former Los Angeles Unified School District high school Art teacher Lorcan T. Kilroy thus requests this United States Supreme Court grant relief from the ninth circuit court of appeals, this time in ninth circuit case No. 19-55357 in which circuit judges Schroeder, Trott and Canby, (or whoever scribed Pro Se related orders on their behalf), on the very date of August 11, 2020 when Harris was chosen as U.S. Presidential running mate, denied Kilroy's Petition

For Rehearing En Banc asking for obstruction investigation, (while explaining to Kilroy and the public that all members of the 9th circuit court saw and evaluated the En Banc petition). This follows justices Schroeder, Trott and Canbys' summary, (essentially one page of paper (DktEntry 26-1)), upholding of USDC judge Dolly Gee's singular lower court judgment for Defendants in which judge Gee ruled simultaneously on both petitioner Kilroy's and LAUSD Defendants' dual motions for summary judgment, (MSJ's) at once.

This lower court judgment was without, (as discussed and proven below), judge Gee or her magistrate judge Early, (who prepared the R&R), even reading Petitioner Kilroy's MSJ crucial statement of uncontroverted material facts, (see case 2:16-cv-09068-DMG-JDE Document148, pages 40-41 (crucial facts # 65-68), filed 06/04/18), or reading LAUSD Defendants' supposedly corresponding crucial objections, (see case 2:16-cv-09068-DMG-JDE Document 155, filed 06/21/2018, pages 54-55 (LAUSD's crucial facts # 66-69 but scrambled numeration not corresponding to Kilroy's #65-68 numeration). Kilroy's MSJ was also notably filed before LAUSD Defendants' MSJ was filed. As proven below, in enacting their one page order upholding judge Gee's judgment, justices Schroeder, Trott and Canby did not read the crucial MSJ documents either.

As proven below, it was all pre-determined, all

rigged. It didn't matter what the evidence was, Petitioner's case was destined to be thrown out and jury trial denied, destroying his life and career for the next four decades. (Petitioner does not believe in "retirement" and would have taught Art into his eighties or nineties.)

OVERLOOKED KEY ENUMERATION ERRORS IN FILED MSJ DOCUMENTS SHOW NINTH CIRCUIT JUSTICES SCHROEDER, TROTT AND CANBY, AND LOWER U.S.D.C. COURT JUDGE GEE, AND HER MAGISTRATE JUDGE EARLY, DID NOT EVEN READ CRUCIAL MSJ DOCUMENTS INCLUDING PETITIONER'S STATEMENT OF UNCONTROVERTED MATERIAL FACTS AND LAUSD'S OBJECTIONS/ADMISSIONS TO THOSE FACTS, BEFORE DECISION FATAL TO KILROY, PROVING GRUESOME POLITICAL BIAS AND CASE RIGGING IN THE NINTH CIRCUIT

Justices Schroeder, Trott and Canby did not, as they claim in their one page order, evaluate anything "de novo". If they or lower court judge Gee, or her magistrate judge Early, had even read Petitioner's MSJ *Statement of uncontroverted material facts*, (case 2:16-cv-09068-DMG-JDE Document 148), or read Defendants' responses/objections, (case 2:16-cv-09068-DMG-JDE Document 155), they would have

been legally compelled to act on the fact that defendants' key MSJ *'Objections And Statements Of Dispute'* regarding due process in petitioner's termination were enumerated incorrectly and didn't even match up to petitioner Kilroy's numbered facts as required. As mentioned above, *see* App. C (case 2:16-cv-09068 Document 155, pages 54-55 (LAUSD's crucial MSJ *'Objections And Statements Of Dispute'* marked # 66-69), and then examine App. C case 2:16-cv-09068 Document 148, pages 40-41, (Kilroy's substantively identical *uncontroverted material facts* but marked as # 65-68.)) LAUSD Defendants' *'Objections And Statements Of Dispute'* document fouls and obfuscates the numeration of their responses, e.g. responding to Kilroy's uncontroverted fact 65 with an objection and statement of dispute labeled number 66, responding to Kilroy's uncontroverted fact 67 with an objection and statement of dispute labeled as number 68 etc. etc.

Letter of procedure dictated LAUSD Defendants' responses/objections to Kilroy's *Statement of Uncontroverted Material Facts* during MSJ be disregarded and an order issue to LAUSD to re-file and correct numeration. After all, if one takes LAUSD's MSJ *'Objections And Statements Of Dispute'* strictly as they lie currently enumerated in the filed permanent record of the federal courts, as vital documents upon which dispositive ruling was supposedly made, they make no sense whatsoever because of this numeration error. That simply

cannot stand. That permanency of unacceptable error in dispositive federal court records did not matter to these courts in the ninth circuit because they never even read the crucial MSJ documents before deciding in LAUSD's, (and more importantly Kamala Harris') favor. Thus Defendants' objections, (without a proper re-filing), were technically weightless in any deciding of the MSJ, and petitioner Kilroy's facts were left legally uncontested.

The point of this for the U.S. Supreme Court is that it was all done like this because of ninth circuit democrat political bias. (Judge Trott also disposed of the previous related case implicating Harris.) It was all done with no proper court adjudication at all, no proper weighing of facts, and done specifically to protect Harris. Any shrewd jurist without political blinders on can see right through it.

LAUSD DEFENDANTS LEFT CERTAIN CRUCIAL FACTS IN FILED MSJ DOCUMENTS UNCONTESTED/UNCONTROVERTED, SHOWING NINTH CIRCUIT JUSTICES SCHROEDER, TROTT AND CANBY, AND LOWER USDC COURT JUDGE GEE, AND HER MAGISTRATE JUDGE EARLY, DID NOT EVEN READ THOSE CRUCIAL MSJ DOCUMENTS INCLUDING APPLICANT/PLAINTIFF'S STATEMENT OF UNCONTROVERTED MATERIAL FACTS AND LAUSD'S

OBJECTIONS/ADMISSIONS TO THOSE FACTS, BEFORE DECISION FATAL TO KILROY, PROVING GRUESOME POLITICAL BIAS AND CASE RIGGING IN THE NINTH CIRCUIT

Had justices Schroeder, Trott and Canby or lower court judge Gee or her magistrate judge Early even read petitioner Kilroy's MSJ Statement of uncontroverted material facts, and read Defendants' responses/objections, they would also have noticed that, even if one overlooks the LAUSD Defendants' enumeration error described above, LAUSD's filed MSJ objections show that Defendants markedly did not contest that Kilroy was stripped of property, (pay), indefinitely, but moreover stripped on a date well before the offered OAH, (State office of administrative hearings), hearing could have been held, in fact stripped of pay even before the 30 day window, (which petitioner was given to elect or not elect OAH), had expired. Defendants leave uncontested, (aside from fouling their numeration as previously described), petitioner Kilroy's statement of uncontroverted facts No.'s 66, 67 and 68, (App. C), which make clear that his pay was indeed cut off, (by LAUSD's devious superfluous 15 day suspension without pay), before the 30 day window in which to elect any OAH hearing even began or ended, and it is uncontested that it was never reinstated. Thus the 15 day suspension expired even before the 30 day window expired, and Kilroy's pay should have been

reinstated if the court and LAUSD's theory about OAH hearing as Loudermill "pre deprivation" hearing is correct. It was not correct.

Had Kilroy even elected OAH hearing he still would have been deprived of property rights before that hearing, (even if the hearing had improbably been held the very next day after the expiration of the 30 day window within which to elect it, and not months or years down the road as is routine in California). (Petitioner requests the court take judicial notice of the common public knowledge that the States' OAH administrative hearings in California, as in many other states, take many months or even years to transpire after being scheduled.) Defendants yet again admit the given suspension was only 15 days in their own filed Document 161 Filed 06/22/18 Page 10, fact 25. It was not given as 20 or 30 working days of suspension, (petitioner was on yearly tenured salary), and it was not given as an unlimited number of days until the Loudermill hearing took place at OAH should petitioner have elected OAH. Yet, in defiance of their assigned 15 day suspension, (after all just a disingenuous LAUSD pre-termination trick to cut off salary), Defendants just immediately stripped petitioner of pay permanently. For all Defendants knew, petitioner might have elected OAH, and the deprivation would have been months, perhaps without living expenses, perhaps without money for counsel, waiting the Loudermill hearing.

As it was, petitioner was confused by Defendants' initial "Skelly hearing" circus and declined the OAH because his due process rights had already been violated.

Salary is a key property interest, if not the key property interest. The Supreme court must put their foot down and reiterate Loudermill. States cannot deprive tenured public workers of property interest indefinitely, of their critical monetary pay indefinitely, before any hearing the States' posture as the required Loudermill hearing, nor can States' ask the worker to pay cash monies to preserve this constitutional property right in the form of an, (often unaffordable), required cash bond. If this is not true it opens the door for public employers to deprive workers with property interest of pay for however long they want before the Loudermill supposedly "pre-deprivation" pre termination hearing months or years down the road. How many days is ok? One week of pay lost before the Loudermill? Three weeks? A year or two? Such a nebulous wishy-washy situation simply cannot be, and still uphold the Supreme Court's ruling in Loudermill. This also goes for States', (or at least in California the LAUSD's), devious otherwise superfluous immediately pre-termination "suspension without pay" trick to cut off pay. In this case the State's' objective was plain criminal interference with a Pro Se teacher's tenuous federal action, the illegal deprivation of pay was the most important thing for them to squash Pro Se Kilroy's litigation efforts. Therefore, in this case,

the offer of OAH hearing could not have stood as an offer of hearing meeting Loudermill's standards, which is exactly what the Ninth Circuit erroneously based its rubberstamp judgment on.

The offered OAH hearing, according to justices Schroeder, Trott and Canby and lower court judge Gee and her magistrate Judge Early, firmly met the pre-deprivation hearing standard under Loudermill. But nationwide in other circuits all jurists know, and have known for years, that the Loudermill hearing, the "initial check on mistaken decision", cannot be held after permanent pay deprivation. Justices Schroeder, Trott and Canbys' one page judgment thus falls apart.

Petitioner Kilroy could hypothetically have been left penniless for months or even years, unable to afford counsel as a result of deprivation, awaiting LAUSD's OAH hearing, supposedly the "pre-deprivation hearing", and that scenario simply fails to meet this U.S. Supreme Court's minimal nationwide fairness standard that was set in Loudermill to provide initial check on mistaken decisions.

If the Ninth Circuit jurists Schroeder, Trott and Canby, before tepidly suggesting the even earlier Dec. 2015 scheduled suspension meeting with Millikan school Principal PLEVACK also satisfied Loudermill, had read the crucial MSJ documents as required, they would also have seen that LAUSD Defendants stubbornly refused to answer Applicant/Plaintiff Kilroy's MSJ statement of

uncontroverted facts No. 65. (App. C, also Dkt 148 at 40-41) This required a plain, (contested or not contested), response, about a plain physical truth: LAUSD Defendants issued the suspension, (which was their trick to get Kilroy off their payroll and incapacitate his Pro Se litigation), after and despite Kilroy handing and emailing to them, (to school Principal PLEVACK and higher human resources official Francisco Serrato), uncontroverted federal court filed declaration disputing under penalty of perjury their sexual fabrications. Instead LAUSD Defendants object that they can't answer yes or no because the answer would lead to inference in their disfavor, (App. C, also Dkt 155 at 54-55). This amounts to essentially waffling with improper legal argument, while moreover fouling by incorrectly labeling their response as responsive to fact No. 66 instead of 65. This unethical deceptive and evasive public official answer should have been ruled as admission of the fact in Kilroy's favor, going to the core function of Loudermill and the fact that LAUSD Defendants' railroaded termination refused to allow for a required most basic "check on mistaken decisions".

An uncontroverted declaration of innocence is a "red flag" of mistaken decision for any impartial jurors. Still LAUSD Defendants ploughed ahead in violation of the Loudermill standard, and ninth circuit jurists Schroeder, Trott and Canby, just backed them up, (judge Canby indicated as perhaps panel leader by involvement in earlier motion denial).

Kilroy also had no statement of termination charges at the Dec 11, 2015 "notice of unsatisfactory act" meeting with LAUSD principal PLEVACK and official SERRATO, a vital Loudermill requirement, (the Dec 11, 2015 meeting and it's date confirmed by Decl. PLEVACK Dkt. 157-4). The 2016 termination charges, (see Defendants' filed termination charges dated Dec 18, 2015 as Exh. M to decl. of LAUSD Human Resources Chief Justo Avila Dkt, 154-2), were not even prepared and signed until Dec. 18, 2015, after Dec 11, and after the Dec 14th and 15th, 2015 dates that LAUSD Principal PLEVACK admits under oath, (Decl. PLEVACK Dkt. 157-4 ¶¶ 8-11) were the scheduled, (and then re-scheduled), dates of suspension meeting. Petitioner provided PLEVACK illness notes as he had by that point become ill and could not attend.

As admitted by AVILA under oath, Petitioner was not given LAUSD Human Resources Chief AVILA's secret falsified termination charges until much later; AVILA first mailed them to Kilroy via regular and certified mail on Jan 12, 2016, then again with an amended cover letter on Jan 14, 2016, amended letter exhibited by AVILA as Decl. AVILA Dkt. 154-2 Exh. N, and clearly stipulating the charges were disclosed in January 2016, (Decl. AVILA Dkt. 154-2 ¶8, Exh. N.)

AVILA admits under oath that LAUSD Board member Defendants were responsible for cutting off Petitioners property interests, (pay), on Jan 12, 2016, not Jan 14, 2016, (Decl. Avila Dkt. 154-2 at 2,

¶¶ 6-7). On Jan 12, 2016 there had been no supposed Loudermill at OAH, and Petitioner had not even informed AVILA, (during the 30 day window AVILA gave him starting Jan 12, 2016), whether or not he would avail himself of OAH. AVILA further refused to verify his charges, (lies), under perjury penalty as required, failing to controvert Kilroy's declaration given to AVILA's subordinates PLEVACK and SERRATO at the Dec 11, 2015 meeting.

Similar declaration was desperately transmitted by Kilroy to Defendants multiple other times before he was terminated and still to this day is uncontroverted as to the sexualized lies used to terminate. What is the value of federal court filed uncontroverted perjury declarations in California. What is the value of Kilroy's uncontroverted perjury declarations about the sexual accusations, declarations also federal court embedded, as confirmed in Defendants supposed "student safety investigative team", (SSIT), report of truly cancerous sexualized hearsay lies by adults only, used as pretext to terminate, all while complicit Los Angeles police stood by and refused to investigate, (see that SSIT report attached to Decl. of LAUSD lawyer John McNulty Case 2:16-cv-09068 Dkt. 204-1 as Exh A.) LAUSD lawyer McNulty tellingly secrets and declines to file the final page "11 of 11" of the SSIT report, (the date/signature page that is missing to this day as indicated by pagination at the bottom of the existing pages only running to pg. "10 of 11"). McNulty also refused to verify truth of the

sexualized contents, or have any student witnesses verify truth, knowing Petitioner's life and career were being destroyed and it would likely incapacitate Petitioner's Pro Se action. Both of these acts of skirting go beyond zealous client advocacy and step into aiding and abetting the federal crime of obstruction. If the lawyer knows of falsity that is crime of obstruction, and commits acts that further that falsity, rather than just defending his client, he is aiding and abetting that crime and has crossed the line.

If officials, LAUSD Board Members, California USDC courts, and even Ninth Circuit jurists, as was the case here, give court filed and other uncontroverted perjury declarations no weight as a Loudermill "red flag", no weight as a signal to "put the brakes on", and instead they just roll onwards, supporting evil hideous career and life destroying lies imputing loathsome disease of pedophilia, then the essential function and standard of Loudermill is lost.

Adding even more exposure to the ninth circuit case rigging is the fact that ninth circuit jurists Schroeder, Trott and Canby just ignored Kilroy's uncontroverted declaration, filed alongside later gained dance class student witness declarations, evidencing that juvenile dance classroom witness L.N.'s filed declaration, (obtained with consent of and alongside his parents), which exonerated petitioner, differed in black and white contrast from the fake handwritten statement

containing a pack of pedophilia imputing lies that was proffered by LAUSD Defendants as L.N.'s "witness statement", (Decl. Kilroy Dkt. 216 ¶5; Decl. L.N. Dkt. 217.), and likewise juvenile dance classroom witness R.V.'s filed declaration, (obtained with consent of and alongside her parent), also exonerating petitioner, differed in black and white contrast from the fake handwritten statement containing pedophilia imputing lie that was proffered by LAUSD Defendants as R.V.'s "witness statement", (Decl. Kilroy Dkt. 216 ¶6; Decl. R.V. Dkt. 219). How much more of a 'smoking gun' do jurists want?

USDC judge Gee's magistrate judge Early, (despite the extreme difficulties that exist in getting federal law enforcement to instigate complex and expensive white collar investigations,) denied, (Dkt.212), Petitioner's motion, (Dkt. 203), to allow Petitioner to reasonably just give the un redacted evidence to federal law enforcement. Instead judge Early decided himself sua sponte, without any law enforcement investigation, that "claims of criminal conduct are not supported" (See LAUSD lawyer McNulty's's panicked opposition to the motion as Dkt. 204, but tellingly absent any declaration controverting the above declared inconsistencies in real perjury sworn v. faked, (by McNulty or others), student witness statements.) USDC judge Gee also denied reasonable motion to immediately cause LAUSD Defendants to prove up their mid-litigation

absurd sexual falsifications in court hearing under perjury oath, (see judge Gee order Dkt. 198). To petitioner this was all akin to Soviet Russia, not the United States.

Ninth circuit democratic jurists aligned with Kamala Harris just wanted petitioner's litigation destroyed and wanted him out of California public employment. The student declarations v. the faked handwritten undeclared statements, are glaring evidence that LAUSD individuals did indeed simply criminally manufacture fake handwritten witness statements of supposed 7th grade students, and that sat just fine with justices Schroeder, Trott and Canby, otherwise they would have correctly found that a "check on mistaken decisions" did not happen, and found that it therefore cannot be said that due process was served under Loudermill.

There were numerous other problems supporting petitioner's argument that the Ninth Circuit was and is politically biased in this case, including a second confusing "initial", (and chronologically first), termination related hearing, (State Skelly hearing), held by LAUSD defendants well before the offer of OAH hearing referenced by justices Schroeder, Trott and Canby. That so called "Skelly" hearing also failed to meet even Loudermill's minimal federal standards and moreover prompted petitioner Kilroy into waiving an OAH hearing offer, (OAH hearing which realistically would have transpired months or years down the road), and instead moved him to file in U.S. district

court. Justices Schroeder, Trott and Canby don't mention or discuss this. The "first" or "initial" hearing in the termination of a tenured public employee must also pass Loudermill's standard, and LAUSD Defendants' chronologically first and initial State "Skelly" hearing did not. If this is not legally true, if the States are permitted to conduct one "fake" Loudermill that fails Loudermill standards but is then excused when the later "OAH" hearing is offered as the "real" Loudermill , then how many times are States allowed to "fake" Loudermill hearings before offering the "real" Loudermill hearing? The door is open for States' to conduct one, two, three, four, five, egregiously abusive "hearings", harassing and disturbing and confusing the employee, before finally offering the "real" Loudermill hearing. This is absurd.

This and most other arguments were spelled out in petitioner's Ninth Circuit filings of his opening brief, reply brief, and his denied Petition For Rehearing En Banc in the instant appeal, which were then all summarily ignored with no rebuttal or "reason" given by justices Schroeder, Trott and Canby for upholding judgment, just the one page rubber stamp statement that Kilroy was offered OAH hearing and thus the constitutional requirement was met. No "reason" does not satisfy arguments, and no reason is equivalent to no adjudication. In a fair court there is always "reason", arguments are not just ignored and passed by. That

is not the role of a court in the United States, but things are apparently different in the Ninth circuit.

CONCLUSION

It is and was all Ninth Circuit corrupt design to protect former CAG Kamala Harris from exposure for aiding and abetting the suppression of witness statements from, and corrupt alteration of a date in, a sequence of Los Angeles police dept. detective's reports marked by police as No. DR 12-09-11015. This sequence of reports is at the core of Kilroy's 's federal action, reports about the classroom battery and criminal threats on a 15 year old minority student victim by a mid career white LAUSD teacher perpetrator, (see again related affidavit of petitioner embedded in the court's files within Appendices to related U.S. Supreme Crt. No. 18-9663 Kilroy v. LAUSD et al.) (That related U.S. Supreme Court case No. 18-9663 was notably closed before even being heard or entering the Cert. pool, via summary action of individual democrat appointed justice Kagan in denial of a reasonable motion that did not prejudice the court or Defendants.)

In the middle of lower court proceedings in that related case SC 18-9663, Kamala Harris' camp, and /or Los Angeles police and LAUSD defendants on her behalf, sprung a falsified sexual misconduct charge on petitioner/plaintiff Kilroy to try to blight

and smear him in the worst way known, and to terminate him, all to obstruct his federal action. This was yet another crime. LAUSD defendants, sure that judge Gee was on their side, posted Kilroy, (who was still employed by them), to substitute teach in a middle school dance class. Then LAUSD adults, (no sworn admissible statements from any child), falsified after class that petitioner Kilroy had stared at 7th graders' buttocks, (in curiously only third period), and falsified that he had peered into an (illegal), makeshift broom closet changing room they had rigged up in the dance classroom. Ninth circuit jurists, police, (and apparently west coast based FBI), then summarily ignored that crime of obstruction, for political reasons, despite specific reasonable request to simply 'vet' Defendants' absurd mid-litigation sexualized and obstructive claims, (see e.g. petitioner's recent ninth circuit denied Petition for Rehearing En Banc in the instant case.)

Complicit LAPD juvenile division police, despite a crime having been charged against Kilroy, tellingly refused, under color of law, to investigate, (even at Kilroy's request), instead, (as Defendants readily admit), referring it back to LAUSD for "administrative" handling. In this way Kilroy was robbed of due process of a proper law enforcement investigation of the sham. This was Los Angeles Police and Los Angeles School District individuals conspiring together ,(18 U.S.C. § 242), to make the obstruction of a federal action succeed, to disparately

not criminally investigate those sexualized falsifications but instead merely refer them for "administrative handling" to ease their further later falsification that the lies "stick," despite no direct witness statements and only falsified hearsay by adults. Police thus aided in this crime of obstruction. It was unbelievable corruption, criminal obstruction, and conspiracy between police and LAUSD individuals, and likely Harris' camp, simply because of Kilroy's onward marching litigation threatening criminal exposure relative to their earlier corrupted LAPD detectives' report No. DR 12-09-11015. .

Harris' history as CAG, and her character, is relevant to this application's core astounding and unbelievable, (yet proven by uncontroverted filings), fact that teacher Kilroy really got into so much trouble with the State of California because he exposed that Harris and CA. law enforcement officials, under pressure, ratified in individual capacity a crime connected to the police report at his school.

Anyone who was a jurist behind the scenes in the ninth circuit during Kamala Harris' string of conscience shocking supposedly legal moves while she was climbing up as Calif. Atty. General witnessed the all too common prosecutorial rabies of notching up victories at the expense of truth. But media reports and ninth circuit oral argument audio recordings show that in Harris' case the stunning extent went to Harris even upholding perjury by her AG Deputy on the stand during murder case

testimony. She had difficulty recognizing that her act was wrong, (and illegal), and felt punishment of her Deputy was not warranted. Harris' difficulties and previous disturbed willingness to cross the line into public office criminality, (cloaked by immunity of office), are revealed by such incidents during her CAG tenure.

Her role in the instant case is also conscience shocking. The law enforcement buck stopped with Harris as CAG at the time that the hidden LAUSD witness statements suppressed from LAPD DR 12-09-11015 were exposed by Kilroy, (see Kilroy affidavit within Appendices to SC 18-9663). Harris ratified the crimes of sequential cover ups in the various detectives reports all marked DR 12-09-11015, and ratified the police commission's corrupt inquiry, to absolve LAUSD, to absolve then LAUSD Supt. John Deasy, and to absolve her friend then LAPD Police Chief Charles Beck and Police Commission President Steve Soboroff. She thought a common schoolteacher, (petitioner Kilroy), a teacher who was moreover locked into a constrictive labor union, (UTLA), would simply never be able to raise the issue to any effect.

Now, with more power as U.S. Vice Presidential running mate, or Vice President, attacks on and exposure of past misdeeds by Harris, are, after all, no matter how astounding, more routine and to be expected and more easily brushed off as " just political fracas".

(For the record petitioner Kilroy is neither left nor right, democrat nor republican.)

Acts of ninth circuit jurists in the instant case thus far, outrageously not even reading crucial MSJ pleadings before disposing of the case by granting MSJ, constitute pre-determined case decisions based on absence of any rational basis and based on improper personal motives, and thus violate the constitution's equal protection clause when compared to acts in other circuits. Petitioner Kilroy cannot identify any specific statute of the State of California, or specific Act of Congress to draw into question here in regard to constitutionality. Instead, it is the acts of a circuit's jurists as a group that is here drawn into question. It is as if California ninth circuit jurists consider themselves to be in a different nation altogether, perhaps their proudly so called "nation state" of California, apart from and above the laws of the United States constitution, making up their own rules on how to conduct proceedings.

Respectfully submitted,

By: */s/ LORCAN T. KILROY*
Petitioner In Pro Se
Dated Sept 2, 2020

8927 Cedros Avenue, No. 6
Panorama City,
California 91402
Telephone: (818) 481-4873
Email: lorcankilroy@gmail.com